

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MASATOSHI ARISHIRO,
MASAMI YAMAGUCHI
and TETSURO SAITO

MAILED

OCT 28 2005

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Appeal No. 2005-2500
Application No. 09/893,399¹

ON BRIEF

Before PAK, KRATZ, and TIMM, Administrative Patent Judges.

PAK, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1, 3 and 5 through 9, which are all of the claims pending in the above-identified application.

¹ Application for patent filed June 29, 2001

APPEALED SUBJECT MATTER

Claims 1, 5 and 6 are representative of the subject matter on appeal and read as follows:

1. A manufacturing apparatus for manufacturing electronic monolithic ceramic components, the manufacturing apparatus comprising:

a sheet supplier for supplying a plurality of types of ceramic green sheets in a predetermined order, the sheet supplier including a plurality of trays, each tray being adapted to hold at least one ceramic green sheet, the plurality of ceramic green sheets being held in the plurality of trays according to type, a rack for vertically aligning the plurality of trays, a tray drawer device for drawing trays from the rack according to a predetermined order, and rails arranged to guide a tray drawing operation of the tray drawer device;

a laminator for laminating the plurality of ceramic green sheets supplied by the sheet supplier;

a conveyor device for picking up a single ceramic green sheet from a drawn tray and conveyed the single ceramic green sheet to the laminator;

a processor unit adapted to receive data concerning at least a type, an order in lamination, and a quantity of ceramic green sheets necessary for a laminate for a desired electronic monolithic component;

the sheet supplier including a drive for driving the rack to be raised and lowered in a vertical direction; and

the tray drawer device being arranged to draw a particular tray from the rack when, as a result of the rack being at least one of raised and lowered by the drive, the particular tray is positioned at a predetermined height.

5. A manufacturing apparatus for manufacturing electronic monolithic ceramic components, the manufacturing apparatus comprising:

a sheet supplier for supplying a plurality of types of ceramic green sheets in a predetermined order, the sheet supplier including a plurality of trays, each

tray being adapted to hold at least one ceramic green sheet, at least two of the trays holding two different types of ceramic green sheet, respectively, the plurality of ceramic green sheets being held in the plurality of trays according to type, a rack for vertically aligning the plurality of trays, a tray drawer device for drawing the at least two trays from the rack according to a predetermined order, and rails arranged to guide a tray drawing operation of the tray drawer device;

a laminator for laminating the plurality of ceramic green sheets supplied by the sheet supplier;

a conveyor device for picking up a single ceramic green sheet from a drawn tray and conveying the single ceramic green sheet to the laminator;

a processor unit adapted to receive data concerning at least a type, an order in lamination, and a quantity of ceramic green sheets necessary for a laminate for a desired electronic monolithic component;

the sheet supplier including a drive for driving the rack to be raised and lowered in a vertical direction; and

the tray drawer device being arranged to draw a particular tray from the rack when, as a result of the rack being at least one of raised and lowered by the drive, the particular tray is positioned at a predetermined height.

6. A manufacturing apparatus for manufacturing electronic monolithic ceramic components, the manufacturing apparatus comprising:

a sheet supplier for supplying a plurality of types of ceramic green sheets in a predetermined order, the sheet supplier including a plurality of trays, in each tray the ceramic green sheets being sorted according to the respective typed thereof and a plurality of ceramic green sheets of the same type being stored on each tray, a rack for vertically aligning the plurality of trays, each of the trays including the plurality of ceramic green sheets of the same type, a tray drawer device for drawing trays from

the rack according to a predetermined order, and rails arranged to guide a tray drawing operation of the tray drawer device;

a laminator for laminating the plurality of ceramic green sheets supplied by the sheet supplier;

a conveyor device for picking up a single ceramic green sheet from a drawn tray and conveying the single ceramic green sheet to the laminator;

a processor unit adapted to receive data concerning at least a type, an order in lamination, and a quantity of ceramic green sheets necessary for a laminate for a desired electronic monolithic component;

the sheet supplier including a drive for driving the rack to be raised and lowered in a vertical direction; and

the tray drawer device being arranged to draw a particular tray from the rack when, as a result of the rack being at least one of raised and lowered by the drive, the particular tray is positioned at a predetermined height.

PRIOR ART REFERENCES

The prior art references relied upon by the examiner in support of the Section 103 rejection before us are:

Baccini	6,109,323	Aug. 29, 2000
Yoshimura (Published Japanese patent application)	Hei 4-239604	Aug. 27, 1992
Takane et al. (Takane) (Published Japanese patent application)	Hei 10-321457	Dec. 04, 1998

REJECTION

Claims 1, 3, and 5 through 9 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combined disclosures of Yoshimura, Takane and Baccini.

OPINION

We have carefully reviewed the claims, specification and prior art, including all of the arguments advanced by both the examiner and the appellants in support of their respective positions. This review has led us to conclude that the examiner's Section 103 rejection is not well founded. Accordingly, we reverse the examiner's Section 103 rejection for essentially the reasons set forth at pages 12 through 18 of the Brief. We add the following primarily for emphasis.

As is apparent from pages 4 through 14 of the Answer, the examiner acknowledges that Yoshimura, Takane and Baccini do not teach "a tray drawer device for drawing trays from the rack [for vertically aligning the plurality of trays] according to a predetermined order, and rails arranged to guide a tray drawing operation of the tray drawer device" and "a driver for driving the rack to be raised and lowered in a vertical direction" in the claims on appeal. See claims 1, 5 and 6. To remedy these deficiencies, the examiner asserts (Answer, pages 6 and 7) that:

One skilled in the art would have readily appreciated that while Takane et al has a rack (31) with slots for holding individual ceramic green sheets (10) and a sheet drawing device (35) for drawing the individual sheets from the slots, such a rack would be readily capable and/or adaptable for the slots to hold trays with a plurality of ceramic green sheets inside

and that such a drawing device would be readily capable and/or adaptable for drawing out trays

. . . One skilled in the art would have readily appreciated that the drawing device would have guide rails

One skilled in the art would have readily appreciated that in the above combination that either the tray drawing device needs to be movable up and down to remove each tray from the magazine or the vertical rack must be movable up and down to position each tray adjacent the tray drawing device

In other words, it is the examiner's position that the "common knowledge and common sense" of a person having ordinary skill in the art would have motivated such person to employ the above missing features in the manner claimed. See the Answer, pages 10 and 11. However, no factual evidence is supplied to support such a position. In re Lee, 277 F.3d 1338, 1343-44, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002) ("This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority."); W.L. Gore & Assoc. V. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983) ("To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its

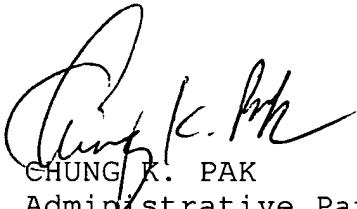
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teacher."). Thus, we are constrained to agree with the appellants that the examiner has not established a prima facie case of obviousness regarding the claimed subject matter within the meaning of Section 103. In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984) (The examiner bears the initial burden of establishing a prima facie case of obviousness.)

CONCLUSION

In view of the foregoing, we reverse the examiner's decision rejecting claims 1, 3 and 5 through 9 under 35 U.S.C. § 103(a).

REVERSED


CHUNG K. PAK)
Administrative Patent Judge)
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PETER F. KRATZ)
Administrative Patent Judge)
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BOARD OF PATENT
APPEALS AND
INTERFERENCES


CATHERINE TIMM)
Administrative Patent Judge)
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